



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2012-0969; FRL-9821-3]

**Approval and Promulgation of Air Quality Implementation Plans;
Ohio; 1997 8-Hour Ozone Maintenance Plan Revision; Motor Vehicle
Emissions Budgets for the Ohio portion of the Wheeling Area**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Under the Clean Air Act (CAA), EPA is approving the request by Ohio to revise the 1997 8-hour ozone maintenance air quality State Implementation Plan (SIP) to replace motor vehicle emissions budgets (budgets) for the Ohio portion of the Wheeling, West Virginia-Ohio area with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) emissions model. Ohio submitted the SIP revision request to EPA on December 7, 2012.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2012-0969, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: blakley.pamela@epa.gov
3. Fax: (312) 692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2012-0969. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials

are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353-8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)353-8777, maietta.anthony@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Is EPA Approving?
- II. What Is the Background for This Action?
 - a. SIP Budgets and Transportation Conformity.
 - b. Prior Approval of Budgets.
 - c. The MOVES Emissions Model.
 - d. Submission of New Budgets Based on MOVES2010a.
- III. What Are the Criteria for Approval?
- IV. What Is EPA's Analysis of the State's Submittal?

- a. The Revised Inventories.
- b. Approvability of the MOVES2010a-based Budgets.
- c. Applicability of MOBILE6.2-based Budgets.

V. What Action is EPA Taking?

VI. Statutory and Executive Order Reviews.

I. What Is EPA Approving?

EPA is approving new MOVES2010a-based budgets for the Ohio portion of the Wheeling, West Virginia-Ohio 1997 8-hour ozone maintenance area that will replace MOBILE-based budgets in the SIP. The Ohio portion of the Wheeling, West Virginia-Ohio area was redesignated to attainment of the 1997 8-hour ozone standard effective June 15, 2007 (72 FR 27644). MOBILE6.2-based budgets for the Ohio portion of the area were approved in that action. Upon the effective date of approval of the MOVES-based budgets, they must then be used in future transportation conformity analyses for the Ohio portion of the area as required by section 176(c) of the CAA. See the official release of the MOVES2010 emissions model (75 FR 9411-9414) for background, and section II.(c) below for details.

II. What Is the Background for This Action?

a. SIP Budgets and Transportation Conformity

Under the CAA, states are required to submit control strategy SIP revisions and maintenance plans for nonattainment and maintenance areas for a given National Ambient Air Quality

Standard (NAAQS). These SIP revisions and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants, including precursors. Transportation plans and projects "conform" to (i.e., are consistent with) the SIP when they will not cause or contribute to air quality violations, or delay timely attainment of the NAAQS.

b. Prior Approval of Budgets

EPA previously approved MOBILE6.2-based volatile organic compounds (VOCs) and nitrogen oxides (NO_x) budgets for the Ohio portion of the Wheeling, West Virginia-Ohio nonattainment area. The area's ozone maintenance plan established 2009 and 2018 budgets that demonstrated a reduction in emissions from the monitored attainment year of 2004.

c. The MOVES Emissions Model

The MOVES model is EPA's state of the art tool for estimating highway emissions. EPA announced the release of MOVES2010 on March 2, 2010 (75 FR 9411). Use of the MOVES model is required for regional emissions analyses for transportation conformity determinations outside of California that begin after March 2, 2013.

MOVES2010a was used to estimate emissions in the Ohio portion of the Wheeling, West Virginia-Ohio area for the same milestone years as the original budgets in the SIP. The Ohio Environmental Protection Agency (OEPA) is revising the budgets

using the latest planning assumptions, including population and employment updates. In addition, newer vehicle registration data has been used to update the age distribution of the vehicle fleet. Updating the budgets with MOVES2010a allows the area to continue to show conformity to the SIP in plans, transportation improvement programs, and projects. The interagency consultation group has had extensive consultation on the requirements and need for new budgets.

d. Submission of New Budgets Based on MOVES2010a

On December 7, 2012, OEPA submitted final budgets based on MOVES2010a that cover the Ohio portion of the Wheeling area. Ohio received no comments during the public review and comment period.

The new MOVES2010a based budgets are for the years 2009 and 2018, for both VOCs and NO_x, and are detailed in table 3 of this notice. Ohio has also provided emissions per sector, including mobile emissions based on MOVES2010a, for the 2004 attainment year, the 2009 interim budget year, and the 2018 maintenance year. The emissions reduction from all sectors between the years 2004 and 2018 is also shown. Emissions per sector and the combined emissions reduction for VOC and NO_x for the Ohio portion of the Wheeling, West Virginia-Ohio area are shown in tables 1 and 2. In tables 1 and 2, for on-road emissions of both VOC and NO_x for the years 2009 and 2018, a 25% safety margin has been

applied¹.

Table 1 - Total VOC Emissions with MOVES2010a Mobile Emissions in the Ohio portion of Wheeling, West Virginia-Ohio area (Belmont Coutny, Ohio) (tons per day)

Sector	2004 Attainment	2009 Interim	2018 Maintenance	Combined Emissions Reduction (2004-2018)
Point	0.20	0.15	0.21	
Area	4.03	3.85	3.86	
On-road Mobile	5.04	4.70	2.15	
Non-road Mobile	0.93	0.81	0.61	
Total	10.20	9.51	6.83	3.37

Table 2 - Total NO_x Emissions with MOVES2010a Mobile Emissions in the Ohio portion of Wheeling West Virginia-Ohio area (Belmont Coutny, OH) (tons per day)

Sector	2004 Attainment	2009 Interim	2018 Maintenance	Combined Emissions Reduction (2004-2018)
Point	28.69	21.04	18.93	
Area	0.29	0.36	0.38	
On-road Mobile	13.98	13.30	5.18	
Non-road Mobile	2.89	2.54	1.91	
Total	45.85	37.24	26.40	19.46

The Belmont-Ohio Marshall Regional Council Metropolitan

¹ The safety margin is applied by adding a certain percentage of emissions, in tons per day, onto the MOVES-based on-road emissions budgets. In this case, Ohio chose to add a 25% safety margin to their budgets. The safety margin cannot exceed the combined emissions reduction for the area.

Planning Organization has added a safety margin that is only a portion of the attainment margin available for NO_x and VOCs to the budgets for 2009 and 2018. As shown in tables 1 and 2, the submittal demonstrates how the area's emissions decline from the attainment year of 2004 to maintain the 1997 8-hour ozone standard.

No additional control measures were needed to maintain the 1997 ozone standard in the Wheeling, West Virginia-Ohio area. Further, Ohio's submittal contains an approach where Ohio and West Virginia maintain conformity with separate budgets for their respective portions of the area. The net result of these approaches will be a total emissions level for the Wheeling area that is expected to provide for the area's continued attainment. An appropriate safety margin for NO_x and VOCs was established by the interagency consultation group, which consists of representatives from the Federal Highway Administration, OEPA, Ohio Department of Transportation, and EPA. The submitted budgets for the Ohio portion of the Wheeling, West Virginia-Ohio area are shown in table 3 below.

III. What Are the Criteria for Approval?

EPA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (e.g., reasonable further progress, attainment, or maintenance). The SIP must also meet any applicable SIP requirements under CAA section 110. In

addition, adequacy criteria found at 40 CFR 93.118(e)(4) must be satisfied before EPA can find submitted budgets adequate and approve them for conformity purposes.

Areas can revise their budgets and inventories using MOVES without revising their entire SIP if (1) the SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES base year and milestone, attainment, or maintenance year inventories, and (2) the state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of the SIP. For more information, see EPA's latest "Policy Guidance on the Use of MOVES2010 for SIP Development, Transportation Conformity, and Other Purposes" (April 2012), available online at: www.epa.gov/otaq/stateresources/transconf/policy.htm#models. Ohio's December 7, 2012, submittal meets this requirement as described in the next section.

IV. What Is EPA's Analysis of the State's Submittal?

a. The Revised Inventories

The December 7, 2012, SIP revision request for the Ohio portion of the Wheeling, West Virginia-Ohio 1997 ozone maintenance plan seeks to revise only the on-road mobile source inventories. OEPA has certified that the control strategies remain the same as in the original SIP, and that no other control

strategies are necessary. OEPA also finds that growth and control strategy assumptions for non-mobile sources (i.e., area, non-road, and point) have not changed significantly from the original submittal. This is supported by the monitoring data for the Wheeling area, which continues to monitor attainment for the 1997 8-hour ozone standard.

OEPA's submittal affirms that the total emissions in the revised SIP (which includes MOVES2010a emissions from mobile sources) as shown in tables 1 and 2 demonstrate that emissions in the Wheeling, Ohio area continue to decline and remain below the attainment levels.

Ohio has submitted MOVES 2010a-based budgets for the Wheeling, Ohio area that are clearly identified in the submittal. The budgets are displayed in table 3.

Table 3 - Motor Vehicle Emission Budgets (MOVES) for the Ohio portion of the Wheeling, West Virginia-Ohio area (Belmont County, Ohio) (tons per day)

Year	2009	2018
VOC	4.70	2.15
NO _x	13.30	5.18

b. Approvability of the MOVES2010a-based Budgets

EPA is approving the MOVES2010a-based budgets submitted by Ohio for use in determining transportation conformity in the Wheeling, Ohio 1997 ozone maintenance area. EPA evaluated the MOVES-based budgets submitted on December 7, 2012, using the

adequacy criteria found in 40 CFR 93.118(e)(4) and our in-depth evaluation of the state's submittal and SIP requirements.

Before submitting the revised budgets, OEPA has shown that it followed all necessary conformity procedures. The budgets are clearly identified and precisely quantified in the submittal. The budgets, when considered with other emissions sources, are consistent with continued maintenance of the 1997 ozone standard. The budgets are clearly related to the emissions inventory and control measures in the SIP. The changes from the previous budgets are clearly explained with the change in the model from MOBILE6.2 to MOVES2010a and the revised and updated planning assumptions. The inputs to the model are detailed in the appendix to the submittal. EPA has reviewed the inputs to the MOVES2010a modeling and participated in the consultation process. The Federal Highway Administration and the Ohio Department of Transportation have taken a lead role in working with the Belmont-Ohio-Marshall Transportation Study to provide accurate, timely information and inputs to the MOVES2010a model run. The state has documented that growth and control strategy assumptions for non-motor vehicle sources (i.e. area, non-road, and point) continue to be valid and any minor updates do not change the overall conclusions of the SIP.

Ohio's submission confirms that the SIP continues to demonstrate maintenance of the 1997 ozone standard because the

total emissions in the revised SIP (including MOVES2010a emissions for mobile sources) continue to decrease from the attainment year to the final year of the maintenance plan, as shown in tables 1 and 2 above. The budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level.

Based on our review of the SIP and the new budgets provided, EPA has determined that the SIP will continue to meet the requirements if the motor vehicle emissions inventories are replaced with MOVES2010a-based inventories.

c. Applicability of MOBILE6.2-based Budgets

Upon the effective date of the approval of the revised budgets, the state's existing MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes.

V. What Action Is EPA Taking?

EPA is approving, as a SIP revision, the replacement MOVES2010-based budgets for the Ohio portion of the Wheeling, West Virginia-Ohio 1997 ozone maintenance plan, as submitted on December 7, 2012. We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This

rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

VI. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of

the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of

the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations, Nitrogen
dioxide, Ozone, Volatile organic compounds.

Dated: May 28, 2013.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1885 is amended by adding paragraph (ff)(15) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(ff) * * *

(15) Approval—On December 7, 2012, Ohio submitted a request to revise the approved MOBILE6.2 motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Ohio portion of the Wheeling area. The budgets are being revised with budgets developed with the MOVES2010a model. The 2009 motor vehicle emissions budgets for the Ohio portion of the Wheeling area are 4.70 tpd VOC and 13.30 tpd NO_x. The 2018 motor vehicle emissions budgets for the Ohio portion of the Wheeling area are 2.15 tpd VOC and 5.18 tpd NO_x.

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Date: 06/11/2013]